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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,167	05/31/2006	Chang-Yong Lee	4220-129 US	1363

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EXAMINER	
KRAUSE, ANDREW E	

ART UNIT	PAPER NUMBER
4152	

MAIL DATE	DELIVERY MODE
11/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,167	LEE ET AL.	
	Examiner	Art Unit	
	ANDREW KRAUSE	4152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 2* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/16/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 1** is rejected under 35 U.S.C. 102(b) as being anticipated by Kageyama (US #5,834,049) in light of the definition of 'bowl' found at dictionary.com (see NPL reference 'bowl') .

3. Kageyama discloses a process for prepareing rice in an aseptic package, the process comprising the steps of:

a. Rinsing raw rice and immersing the rice in water (the rice is washed and soaked, column 3, line 65, Item **2** in figures)

b. Putting the rice in a heat resistant plastic bowl (the washed and soaked rice is added to plastic trays, column 3, lines 49 and 63) and sterilizing at 130-150° C for 4-8 seconds four to ten times repeatedly (column 4, lines 14-44).

c. Adding cooking water into the bowl (column 5, lines 16-20) in an aseptic space (column 5, lines 30-35) and cooking the rice (column 5, lines 19-20); and

d. Sealing and wrapping the bowl (column 5, lines 36-40).

4. Regarding the heat resistant plastic bowl, Kageyama discloses using a plastic tray. In light of the dictionary definition of a bowl as 'a rather deep, round dish or basin, used chiefly for holding liquids, food, etc.', the tray of Kageyama is equivalent to the bowl of the claimed invention. Further, although Kageyama does not explicitly disclose that the tray is heat resistant, the tray is subjected to the temperatures of the claimed invention without melting or deforming, therefore it is inherently heat resistant.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kageyama as applied to claim 1 above in view of the abstract of Ishida (JP 403198756A).

9. Kageyama discloses the rice product of claim 1, however it fails to discloses adding 30-70% of the cooking water prior to the cooking process, and the residual amount of the cooking water prior to the wrapping.

10. However, Ishida discloses a method for preparing a rice product, wherein rice is cooked by adding hot water (constitution, line 3), and then hydrating the mixture to add the residual amount of the cooking water (constitution line 7).

11. Although Ishida does not explicitly disclose the relative quantities of cooking water added before and after the cooking process, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the relative

quantities of cooking water added for the intended application, since it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

12. It would have been obvious to combine the method of sterilizing and packaging the rice disclosed by Kageyama with the method of cooking the rice disclosed by Ishida, because cooking the rice in the manner of Ishida allows one to obtain a cooked rice gruel product (Ishida, constitution lines 19-20).

13. Still further, the prior art discloses both the rice product of claim 1 (Kageyama), and the method of cooking the rice by adding water before and after the cooking process (Ishida). The prior art of Kageyama and Ishida combine to disclose the elements of the claims at issue. The level of ordinary skill in the art at the time of the invention allows one to process and sterilize the rice as disclosed by Kageyama, and cook the rice 'in a known manner (Kageyama column 5, line 20). It was also known to one of ordinary skill in the art at the time of the invention to cook the rice by adding water before and after the cooking process as disclosed by Ishida. Therefore, it would have been obvious to combine the method of Kageyama with the method of Ishida, because all the claimed elements were known at the time of the invention, and one of ordinary skill in the art could have combined them with no change to their respective functions to yield predictable results.

14. **Claim 2** is rejected under 35 U.S.C 103(a) as being unpatentable over Kageyama as applied to claim 1 above in view of 'Chinese Chicken and Rice Porridge' (Gourmet, 2000).

15. Kageyama discloses the rice product of claim 1, however it fails to discloses adding 30-70% of the cooking water prior to the cooking process, and the residual amount of the cooking water prior to the wrapping.

16. However, 'Chinese Chicken and Rice Porridge' discloses a method for cooking the rice product wherein following the cooking process, a second addition of water is made (paragraph 3).

17. Although Ishida does not explicitly disclose the relative quantities of cooking water added before and after the cooking process, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the relative quantities of cooking water added for the intended application, since it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch, 617* F.2d 272, 205 USPQ 215 (CCPA 1980).

18. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the method of sterilizing and packaging the rice disclosed by Kageyama with the method of cooking the rice disclosed by 'Chinese Chicken and Rice

Porridge', because adding water following cooking allows for the adjustment of the rice's texture (paragraph 3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KRAUSE whose telephone number is (571)270-7094. The examiner can normally be reached on 7:30-5, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Del Sole can be reached on (571)272-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANDREW KRAUSE/
Examiner, Art Unit 4152

/Joseph S. Del Sole/
Supervisory Patent Examiner, Art Unit 4152